

PROPOSED RULE AMENDMENTS

Public Hearing:

May 13, 2020 – 10:00 am

Full Commission Vote:

May 15, 2020- 9:00 am

**Wake Technical Community College
Public Safety Training Center
321 Chapanoke Rd.
Raleigh, NC 27502**

Instructions for Oral and Written Comments: The objection, reasons for the objection, and the clearly identified portion of the rule to which the objection pertains, must be submitted in writing to:

Charminique Williams
Department of Justice
Criminal Justice Standards Division
PO Drawer 149
Raleigh, NC 27602.



Title: General Instructor Certification, Certification of Diversion Investigators and Supervisors, Minimum Training Specifications: Annual In-Service Training
Agency: Criminal Justice Education and Training and Standards Commission
Contact: Charminique Williams
Impact Summary: State Government: No
Local Government: No
Substantial Impact: No
Small Business: No

12 NCAC 09A .0205 Period of Suspension: Revocation: Or Denial
12 NCAC 09B .0101 Minimum Standards for Criminal Justice Officers
12 NCAC 09B .0202 Responsibilities of the School Director
12 NCAC 09B .0203 Admission of Trainees
12 NCAC 09B .0303 Terms and Conditions of General Instructors Certification
12 NCAC 09B .0202 Responsibilities of the School Director
12 NCAC 09E .0104 Instructors: Annual In-Service Training
12 NCAC 09G .0309 Terms and Conditions of General Instructors Certification
12 NCAC 09H .0102 Minimum Training Specifications

Statutory authority for the rule change: G.S. 17C-6; 17C-10; 14-415.10; 14-415.25, 14-415.26.

Amendment: On November 22, 2019, the Criminal Justice Education and Training Standards Commission proposed amendments to the aforementioned rules in order to:

- ☐ **State Impact:** None
- ☐ **Local Government Impact:** No
- ☐ **Substantial Economic Impact:** No
- ☐ **Small Business Impact:** No

*Rules begin on the following page

12 NCAC 09E .0104 is proposed for amendment as follows:

12 NCAC 09E .0104 INSTRUCTORS: ANNUAL IN-SERVICE TRAINING

The following requirements and responsibilities are hereby established for instructors who conduct the law enforcement officers' annual in-service training program:

- (1) The instructor shall hold Instructor Certification issued by the Commission as outlined in 12 NCAC 09B .0302, 09B .0304, and 09B .0306, except for instructors:
 - (A) delivering CPR certifications that include cognitive and skills testing;
 - (B) delivering use of equipment training conducted by a manufacturer, manufacturer's representative or a service provider and documented through a certificate of completion;
 - or
 - (C) delivering Incident Command System training for NIMS (National Incident Management System) compliance who are certified through FEMA (Federal Emergency Management Agency) as Incident Command Instructors.

In addition, each instructor certified by the Commission to teach in a Commission-accredited basic training, Speed Measuring Instrument Operator or Instructor training, Instructor or Specialized Instructor training, or Commission-recognized in-service training course shall remain competent in his or her specific or specialty areas. Such competence includes remaining current in the instructor's area of expertise, which may be demonstrated by completing all instructor updates issued by the Commission.

- (2) Instructors who teach a required in-service training topic, other than a topic taught pursuant to Paragraph (1) of this Rule, or a Firearms Training and Qualification course pursuant to Rule .0105(a)(1) of this Section, shall achieve a passing grade on a topic specific test developed by the North Carolina Justice Academy or by the agency delivering the training. Instructors who teach a required in-service training topic online shall also complete the in-service training for the topic he or she will be teaching. Instructors who teach an in-service training topic in a traditional classroom format will receive credit toward their own in-service training requirements, provided that they pass all required tests and have their instruction documented by the Department Head or In-Service Training Coordinator once completed.

- (3) Instructors completing mandated in-service topics in their entirety pursuant to 12 NCAC 09E .0105 as presented by the North Carolina Justice Academy as part of the Instructor Training Update program no more than 60 days prior to the calendar year, shall have satisfied the requirements of 12 NCAC 09E .0105.

- ~~(4)~~(3) The instructor shall deliver the training consistent with the specifications established in Rules 09E .0105 and .0106.

- ~~(5)~~(4) The instructor shall report the successful or unsuccessful completion of training for each officer to the Department Head.

(6)(5) When the officer fails to qualify with a weapon, the instructor shall inform the officer that the officer did not qualify and the instructor shall deliver a Commission form F-9A (Firearms Qualification and Record) to the officer that shall be signed by the officer. This form shall instruct the officer not to use the weapon and shall require the officer to notify the Department Head or designated representative within 24 hours of the failure to qualify. The instructor shall personally deliver this form or send the form by certified mail to the Department head or designated representative within 72 hours of the failure to qualify.

All Commission forms are available for download on the Criminal Justice Standards Division website: ~~<http://ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Forms-and-Publications.aspx>~~ <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>.

History Note: Authority G.S. 17C-6; 17C-10;

Eff. July 1, 1989;

Amended Eff. July 1, 2016; May 1, 2014; February 1, 2013; April 1, 2008; January 1, 2006; January 1, 2005;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019.

Amended Eff. May 1, 2020.

12 NCAC 09G .0309 is proposed for amendment as follows:

12 NCAC 09G .0309 TERMS AND CONDITIONS OF GENERAL INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for certification as a general instructor shall, ~~for within~~ the first 12 months of certification, be in a probationary status until satisfying the requirements of Paragraph (b) of this Rule. The General Instructor Certification, Probationary Status shall automatically expire 12 months from the date of issuance.

(b) The probationary instructor shall be eligible for General Instructor ~~general instructor~~ status if the instructor, ~~through application at the end of the probationary period~~, submits to the Commission a favorable recommendation from a certified School Director or In-Service Training Coordinator, located on the agency's website:

<https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/#102-wpfd-instructor>. Form-F-

12A shall be accompanied by a certification on a Commission Instructor Evaluation Form F-16 that the instructor

taught a minimum of eight hours of Commission-accredited basic training, ~~course~~, Commission-recognized in-service

training ~~course~~, or training course pursuant to 12 NCAC 10B .0601, 10B .1302, or 10B .2005 during the probationary

period. The instructor shall achieve a minimum of 64 points on all instruction evaluations submitted to the

Commission. The Commission Instructor Evaluation Form F-16 is located on the agency's website:

~~<http://www.ncdoj.gov/getdoc/c2eba6aa-12bc-4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx>~~[https://ncdoj.gov/law-](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/#102-wpfd-instructor)

[enforcement-training/criminal-justice/forms-and-publications/#102-wpfd-instructor](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/#102-wpfd-instructor).

(c) The term of certification as a general instructor is indefinite, provided the instructor completes during each

calendar year a minimum of one hour of instructor refresher training provided by North Carolina Justice Academy.

The Standards Division shall post on its website on January 1 of the current year the list of instructors who have met

this requirement during the previous calendar year.

(d) If the instructor fails to complete the instructor refresher training specified in Paragraph (c) of this Rule, he or she

shall deliver eight hours of evaluated instruction in a Commission-accredited basic or Commission-recognized training

course and complete the instructor refresher training specified in Paragraph (c) of this Rule within 60 days.

(e) If an instructor fails to meet the requirements of Paragraph (c) and (d) of this Rule, the certification period for the

instructor shall cease, and the instructor shall be required to complete the requirements of Rule .0308 of this Section

in order to obtain probationary instructor status.

(f) "Commission-recognized in-service training" shall mean training meeting the following requirements:

(1) training is taught by an instructor certified by the Commission;

(2) training utilizes a lesson plan in the Instructional Systems Design format; and

(3) completion of training shall be demonstrated by a passing score on a written test as follows:

(A) a written test comprised of at least five questions per credit shall be developed by the

agency or the North Carolina Justice Academy for each in-service training topic requiring

testing. Written courses that are more than four credits in length are required to have a

written test comprising of a minimum of 20 questions. The Firearms Training and

Qualifications in-service course is exempt from this written test requirement;

(B) a student shall pass each test by achieving 70 percent correct answers; and

1 (C) a student who completes a topic of in-service training in a traditional classroom setting or
2 online and fails the end of topic exam shall be given one attempt to re-test. If the student
3 fails the exam a second time, the student shall complete the in-service training topic in a
4 traditional classroom setting before taking the exam a third time.
5

6 *History Note: Authority G.S. 17C-6;*
7 *Temporary Adoption Eff. January 1, 2001;*
8 *Eff. August 1, 2002;*
9 *Amended Eff. January 1, 2017; June 1, 2012; August 1, 2006; January 1, 2006;*
10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
11 *2019.*
12 *Amended Eff. July 1, 2020.*

12 NCAC 09H .0102 is proposed for amendment as follows:

12 NCAC 09H .0102 MINIMUM TRAINING SPECIFICATIONS

(a) Firearms Training and Qualification-four hours.

(b)(a) Each qualified retired law enforcement officer shall qualify with each handgun he or she carries in accordance to the guidelines as published in the In-Service Firearms Qualification Manual as published by the North Carolina Justice Academy relating to rounds fired, distances, the ratio of shots fired from each yard line and positions of fire. with the standards outlined in 12 NCAC 09E .0105(a)(1) and 12 NCAC 09E .0106(a), (c), (e), (f) and (g), which shall incorporate in classroom instruction and firearms qualification on the firing range utilizing the course of fire from the "Specialized Firearms Instructor Training Manual."

(c)(b) Qualification shall include a day and night qualification course with each handgun he or she carries, and a single day and night combat course with one handgun that he or she carries. In addition to the standards set out 12 NCAC 09E .0105 and .0106, each qualified retired law enforcement officer shall also receive a minimum of two hours of instruction on the North Carolina laws of self defense and the use of force by private citizens, detention of persons by private persons, and assistance to law enforcement officers by private persons

(d)(e) Each qualified retired law enforcement officers shall receive a minimum of two hours of instruction on the North Carolina laws of self-defense, the use of force by private citizens, detention of persons by private persons, and assistance to law enforcement officers by private citizens. Qualified retired law enforcement officers meeting the requirements of Paragraphs (a) and (b) of this Rule, and have met the requirements of Rule .0105 of this Subchapter, shall be certified for a period of 12 months from the date the application is approved by the Commission. Upon application for renewal, the certification may be renewed by the Commission for 12-month periods, provided the qualified retired law enforcement officer meets the rules specified in this Subchapter.

(e)(d) Instruction shall include a review of firearms safety and basic marksmanship fundamentals. Qualified retired law enforcement officers shall qualify each certification period with each handgun that will be carried concealed.

(f) The qualification requirements shall be achieved at least once in a single day in no more than three attempts in a single day for each course of fire and for each weapon for which qualification is required. Officers not qualifying in a single day for each course of fire shall be deemed as a failure and the retired qualified law enforcement officers shall not be allowed to carry that weapon.

(g) Qualified retired law enforcement officers shall be certified for a period of 12 months from the date the application is approved by the Commission. Upon application for renewal, the certification shall be renewed by the Commission for 12-month periods provided the qualified retired law enforcement officer meets the rules specified in this Subchapter.

(h) Qualified retired law enforcement officers shall qualify each certification period with each handgun that he or she carries.

History Note: Authority G.S. 14-415.10; 14-415.25; 14.415.26; 17C-6;

Eff. May 1, 2009;

Amended Eff. April 1, 2017;

1 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
2 *2019.*
3 *Amended Eff. July 1, 2020.*

1 12 NCAC 09A .0205 is proposed for amendment as follows:

2
3 **12 NCAC 09A .0205 PERIOD OF SUSPENSION: REVOCATION: OR DENIAL**

4 (a) When the Commission revokes or denies the certification of a criminal justice officer, the period of the sanction
5 shall be permanent where the cause of sanction is:

- 6 (1) commission or conviction of a felony offense; or
7 (2) commission or conviction of a criminal offense for which authorized punishment included
8 imprisonment for more than two years; or
9 (3) the second suspension of an officer's certification for any of the causes requiring a five-year period
10 of suspension.

11 (b) When the Commission suspends or denies the certification of a criminal justice officer, the period of sanction
12 shall be not less than five years; however, the Commission may either reduce or suspend the period of sanction under
13 Paragraph (b) of this Rule or substitute a period of probation in lieu of suspension of certification following an
14 administrative hearing, where the cause of sanction is:

- 15 (1) commission or conviction of a criminal offense other than those listed in Paragraph (a) of this Rule;
16 or
17 (2) refusal to submit to the applicant or lateral transferee drug screen required by these Rules; or
18 (3) production of a positive result on a drug screen reported to the Commission under 12 NCAC 09C
19 .0310, where the positive result cannot be explained to the Commission's satisfaction; or
20 (4) material misrepresentation of any information required for certification or accreditation; or
21 (5) obtaining, attempting to obtain, aiding another person to obtain, or aiding another person to attempt
22 to obtain credit, training or certification by any means of false pretense, deception, fraud, or
23 misrepresentation or cheating; or
24 (6) failure to make either of the notifications as required by 12 NCAC 09B .0101(8); or
25 (7) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230; or
26 (8) performing activities or duties for which certification by the Commission is required without having
27 first obtained the appropriate ~~certification~~ certification; or
28 (9) commission or conviction of offenses as specified in 12 NCAC 09B .0111(1)(d).

29 (c) When the Commission suspends or denies the certification of a criminal justice officer, the period of sanction
30 shall be for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues
31 to exist, where the cause of sanction is:

- 32 (1) failure to meet or satisfy relevant basic training requirements; or
33 (2) failure to meet or maintain the minimum standards of employment; or
34 (3) discharge from a criminal justice agency for impairment of physical or mental capabilities; or
35 (4) failure to meet or satisfy the in-service training requirements as prescribed in 12 NCAC 9E.
36

37 *History Note: Authority G.S. 17C-6; 17C-10;*

1 *Eff. January 1, 1981;*

2 *Amended Eff. February 1, 2006; August 1, 2001; November 1, 1993; July 1, 1990; July 1, 1989;*
3 *October 1, 1985;*

4 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
5 *2019.*

6 *Amended Eff. July 01, 2020.*

**SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND
TRAINING**

SECTION .0100 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT

12 NCAC 09B .0101 MINIMUM STANDARDS FOR CRIMINAL JUSTICE OFFICERS

Every criminal justice officer employed by an agency in North Carolina shall:

- (1) be a citizen of the United States;
- (2) be at least 20 years of age;
- (3) be of good moral character pursuant to G.S. 17C-10 and as evidenced by the following:
 - (a) not having been convicted of a felony;
 - (b) not having been convicted of a misdemeanor as defined in 12 NCAC 09B .0111(1) for five years or the completion of any corrections supervision imposed by the courts, whichever is later;
 - (c) not having been convicted of an offense that, under 18 U.S.C. 922, incorporated by reference with subsequent amendments and editions (found at no cost at (<http://www.gpo.gov/fdsys/pkg/USCODE-2011-title18-part1-chap44-sec922.pdf>), would prohibit the possession of a firearm or ammunition;
 - (d) having submitted to and produced a negative result on a drug test within 60 days of employment or any in-service drug screening required by the appointing agency that meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing labs that meet this requirement may be obtained, at no cost, at (<https://www.samhsa.gov/programs-campaigns/drug-free-workplace/guidelines-resources/drug-testing/certified-lab-list>);
 - (e) submitting to a background investigation consisting of the verification of age and education and a criminal history check of local, state, and national files;
 - (f) being truthful in providing information to the appointing agency and to the Standards Division for the purpose of obtaining probationary or general certification;
 - (g) not having pending or outstanding felony charges that, if convicted of such charges, would disqualify the applicant from holding such certification, pursuant to North Carolina General Statute 17C-13; and
 - (h) not engage in any conduct that brings into question the truthfulness or credibility of the officer, or involves "moral turpitude." "Moral Turpitude" is conduct that is contrary to justice, honesty, or morality, including conduct as defined in: re Willis, 299 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); in re State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); in re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); in re Dillingham, 188 N.C. 162, 124 S.E. 130

- 1 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions
2 that cite these cases as authority.
- 3 (4) have been fingerprinted and a search made of local, state, and national files to disclose any criminal
4 record;
- 5 (5) have been examined and certified by a licensed surgeon, physician, physician assistant, or nurse
6 practitioner to meet physical requirements necessary to properly fulfill the officer's particular
7 responsibilities and shall have produced a negative result on a drug screen administered according
8 to the following specifications:
- 9 (a) the drug screen shall be a urine test consisting of an initial screening test using an
10 immunoassay method and a confirmatory test on an initial positive result using a gas
11 chromatography/mass spectrometry (GC/MS) or other reliable initial and confirmatory
12 tests as may, from time to time, be authorized or mandated by the Department of Health
13 and Human Services for Federal Workplace Drug Testing Programs;
- 14 (b) a chain of custody shall be maintained on the specimen from collection to the eventual
15 discarding of the specimen;
- 16 (c) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine
17 (PCP), opiates, and amphetamines or their metabolites;
- 18 (d) the test threshold values meet the requirements established by the Department of Health
19 and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR
20 7920 (2017) incorporated by reference, including later amendments and editions (found at
21 no cost at <https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs>);
- 22 (e) the test conducted shall be not more than 60 days old, calculated from the time when the
23 laboratory reports the results to the date of employment;
- 24 (f) the laboratory conducting the test shall be certified for federal workplace drug testing
25 programs, and shall adhere to applicable federal rules, regulations, and guidelines
26 pertaining to the handling, testing, storage, and preservation of samples;
- 27
- 28 (6) have been administered a psychological screening examination by a clinical psychologist or
29 psychiatrist licensed to practice in North Carolina or by a clinical psychologist or psychiatrist
30 authorized to practice in accordance with the rules and regulations of the United States Armed
31 Forces within one year prior to employment by the employing agency to determine the officer's
32 mental and emotional suitability to properly fulfill the responsibilities of the position;
- 33 (7) have been interviewed personally by the Department head or his representative or representatives to
34 determine such things as the applicant's appearance, demeanor, attitude, and ability to communicate;
- 35 (8) notify the Standards Division of all criminal offenses that the officer is arrested for or charged with,
36 pleads no contest to, pleads guilty to or is found guilty of as well as Domestic Violence Orders (50B)
37 that are issued by a judicial official. This shall include all criminal offenses except minor traffic

offenses and shall specifically include any offense of Driving Under The Influence (DUI) or Driving While Impaired (DWI). A minor traffic offense is defined, for purposes of this Subparagraph, as an offense for which the maximum punishment allowable by law is 60 days or less. Other offenses under Chapter 20 (Motor Vehicles) of the General Statutes of North Carolina or similar laws of other jurisdictions which shall be reported to the Standards Division expressly include G.S. 20-139 (persons under influence of drugs), G.S. 20-28(b)(driving while license permanently revoked or permanently suspended), and G.S. 20-166 (duty to stop in event of accident). The notifications required under this Subparagraph shall be in writing and shall specify the nature of the offense, the court in which the case was handled, the date of the arrest or criminal charge, the final disposition, and the date thereof. The notifications required under this Subparagraph shall be received by the Standards Division within 30 days of the date of arrest or charge and of case disposition. The requirements of this Subparagraph shall be applicable at all times during which the officer is certified by the Commission and shall also apply to all applicants for certification. Officers required to notify the Standards Division under this Subparagraph shall also make the same notification to their employing or appointing executive officer within 20 days of the date the case was disposed of in court. The executive officer, provided he has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of all arrests or criminal charges and final dispositions within 30 days of the date the case was disposed of in court. Receipt by the Standards Division of a single notification, from either the officer or the executive officer, shall be sufficient notice for compliance with this Subparagraph.

(9) _____ notify the Standards Division within five days of being notified that because of the officer's lack of honesty, truthfulness, or credibility, the officer may not testify in court as a law enforcement officer. This provision shall apply only to notifications (1) made in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States Attorney, Assistant United States Attorney, or the officer's department head, or (2) made in open court by a superior court judge, district court judge, or federal judge. The officer's notification to the Standards Division shall be in writing and shall state who notified the officer that the officer may not testify in court as a law enforcement officer and when the officer was so notified. An officer required to notify the Standards Division under this subparagraph shall make the same notification to his or her department head within five days of being notified that he or she may not testify in court as a law enforcement officer. A department head who is notified that an officer in his or her agency has been notified that the officer may not testify in court as a law enforcement officer shall also notify the Standards Division within five days of the department head's receipt of such notice. Receipt by the Standards Division of a single notification, from either the officer or the department head, shall be sufficient notice for compliance with this subparagraph.

*History Note: Authority G.S. 17C-6; 17C-10;
Eff. January 1, 1981;*

1 *Amended Eff. April 1, 2018; October 1, 2017; September 1, 2001; April 1, 1999; January 1, 1995;*
2 *November 1, 1993; July 1, 1990;*
3 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
4 *2019.*
5 *Amended Eff. July 01, 2020.*

1 12 NCAC 09B .0202 is proposed for amendment as follows;

2
3 **12 NCAC 09B .0202 RESPONSIBILITIES OF THE SCHOOL DIRECTOR**

4 (a) In planning, developing, coordinating, and delivering each Commission-certified criminal justice training course,
5 the School Director shall:

- 6 (1) Formalize and schedule the course curriculum in accordance with the curriculum standards
7 established in this Subchapter;
- 8 (2) Select and schedule instructors who are certified by the Commission;
- 9 (3) Provide each instructor with a current Commission course outline and all necessary additional
10 information concerning the instructor's duties and responsibilities;
- 11 (4) Notify each instructor that he or she shall comply with the Basic Law Enforcement Training Course
12 Management Guide and provide him or her access to the most current version of the Course
13 Management Guide;
- 14 (5) Review each instructor's lesson plans and other instructional materials for conformance to
15 Commission standards and to minimize repetition and duplication of subject matter;
- 16 (6) Arrange for the availability of appropriate audiovisual aids and materials, publications, facilities,
17 and equipment for training in all topic areas;
- 18 (7) Develop, adopt, reproduce, and distribute any supplemental rules and requirements determined by
19 the school to be necessary or appropriate for:
 - 20 (A) effective course delivery;
 - 21 (B) establishing responsibilities and obligations of agencies or departments employing or
22 sponsoring course trainees; and
 - 23 (C) regulating trainee participation and demeanor, ensuring trainee attendance, and
24 maintaining performance records;
- 25 (8) If appropriate, recommend housing and dining facilities for trainees;
- 26 (9) Administer the course delivery in accordance with Commission procedures and standards, give
27 consideration to advisory guidelines issued by the Commission, and ensure that the training offered
28 is safe and effective;
- 29 (10) Maintain direct supervision, direction, and control over the performance of all persons to whom any
30 portion of the planning, development, presentation, or administration of a course has been delegated.
31 The comprehensive final examination shall be administered by the Criminal Justice Education and
32 Training Standards Commission; and
- 33 (11) Report the completion of each presentation of a Commission-certified criminal justice training
34 course to the Commission.
- 35 (12) All forms required for submission to the Commission are located on the Agency's website:
36 [http://www.ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-](http://www.ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Forms-and-Publications.aspx)
37 [Education-and-Training-Standards/Forms-and-Publications.aspx](http://www.ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Forms-and-Publications.aspx).

(b) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified Basic Law Enforcement Training Course, the School Director shall:

- (1) Deliver training in accordance with the most current version of the Basic Law Enforcement Training Course Management Guide as published by the North Carolina Justice Academy;
- (2) Schedule course presentation to include 12 hours of instruction each week during consecutive calendar weeks, except that there may be as many as three one-week breaks until course requirements are completed;
- (3) Schedule only specialized instructors certified by the Commission to teach those high-liability areas as specified in Rule .0304(a) of this Subchapter as either the lead instructor or as assistant instructors or role players;
- (4) With the exception of the First Responder, Physical Fitness, Explosives and Hazardous Materials, and topical areas outlined in Rule .0304(a) of this Subchapter, schedule one specialized instructor certified by the Commission for ~~each~~ every six trainees while actively engaged in a practical performance exercise;
- (5) Schedule one specialized instructor certified by the Commission for ~~each~~ every eight trainees while actively engaged in a practical performance exercise in the topical area "Subject Control Arrest Techniques;"
- (6) Schedule no single individual to instruct more than 35 percent of the total hours of the curriculum during any one delivery of the Basic Law Enforcement Training Course presentation;
- (7) Not less than ~~45~~ 30 days before commencing delivery of the Basic Law Enforcement Training Course, submit to the Commission a Pre-Delivery Report of Training Course Presentation ~~as set out in~~ pursuant to 12 NCAC 09C .0211. The Pre-Delivery Report (Form F-10A) shall indicate a requested date and location for the administration of the state comprehensive exam, and include the following attachments:
 - (A) a course schedule showing the arrangement of topical presentations and proposed instructional assignments; and
 - (B) a copy of any rules and requirements for the school. A copy of such rules shall also be given to each trainee and to the executive officer of each trainee's employing or sponsoring agency or department at the time the trainee enrolls in the course;
- (8) Monitor, or designate an instructor certified by the Commission to monitor, a presentation of each instructor once during each three year certification period in each topic taught by the instructor and prepare a written evaluation on the instructor's performance and suitability for subsequent instructional assignments. The observations shall be of sufficient duration to ensure that the instructor is using the Instructional System Design model, and that the delivery is ~~objective-based~~, objective-based, documented by, and consistent with a Commission-approved lesson plan. For each topic area, the School Director's evaluation shall be based upon the course delivery observations, the instructor's use of the approved lesson plan, and the results of the student evaluations of the

1 instructor. For probationary instructors, the evaluations conducted by another instructor shall be
2 prepared on the Criminal Justice Instructor Evaluation (~~Form F-16~~), (Form F-16) and forwarded to
3 the Commission. Based on this evaluation, the School Director shall recommend approval or denial
4 of requests for General Instructor Certification. For all other instructors, these evaluations shall be
5 prepared on the Criminal Justice Instructor Evaluation (Form F-16), be kept on file by the school
6 for a period of three years, and shall be made available for inspection by a representative of the
7 Commission upon request. In the event the evaluation of an instructor indicates that his or her
8 performance was less than acceptable, the School Director shall forward a copy of the evaluation to
9 the Commission. Any instructor who is evaluating the instructional presentation of another
10 instructor shall hold certification in the same instructional topic area as that for which the instructor
11 is being evaluated;

- 12 (9) Administer or designate a staff person to administer appropriate tests during course delivery:
- 13 (A) to determine and record the level of trainee comprehension and retention of instructional
 - 14 subject- matter;
 - 15 (B) to provide a basis for a final determination or recommendation regarding the minimum
 - 16 degree of knowledge and skill of each trainee to function as an inexperienced law
 - 17 enforcement officer; and
 - 18 (C) to determine subject or topic areas of deficiency for the application of Rule .0405(a)(3) of
 - 19 this Subchapter; and
- 20 (10) Not more than 10 days after the conclusion of a school's offering of Basic Law Enforcement
- 21 Training, submit to the Commission a Post-Delivery Report of Training Course Presentation (Form
- 22 F-10B) that shall include:
- 23 (A) a "Student Course Completion" form for each individual enrolled on the day of orientation;
 - 24 and
 - 25 (B) a "Certification and Test Score Release" form.

26 (c) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-

27 certified "Criminal Justice Instructor Training Course," the School Director shall:

- 28 (1) Schedule course presentation to include a minimum of 40 78 hours of instruction during the time
- 29 period the class is taught until course requirements are completed. ~~each week during consecutive~~
- 30 ~~calendar weeks until course requirements are completed;~~
- 31 (2) Schedule at least one evaluator for each six trainees, as follows:
- 32 (A) no evaluator shall be assigned more than six trainees during a course delivery;
 - 33 (B) each evaluator, as well as the instructors, shall have completed a Commission-certified
 - 34 instructor training course or an equivalent instructor training course utilizing the
 - 35 Instructional Systems Design model, an international model with applications in education,
 - 36 military training, and private enterprise; and

- (C) each instructor and evaluator shall document successful participation in a program presented by the North Carolina Justice Academy for purposes of familiarization and supplementation relevant to delivery of the instructor training course and trainee ~~evaluation~~; evaluation.
- (3) Not fewer than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation [Form F-10A(ITC)] with the following attachments:
- (A) a course schedule showing the arrangement of topical presentations and proposed instructional assignments;
 - (B) the names and last four digits of the social security numbers of all instructors and evaluators; and
 - (C) a copy of any rules, and requirements for the school; and
- (4) Not more than 10 days after course completion, submit to the Commission a Post-Delivery Report [Form F-10B(ITC)] containing the following:
- (A) class enrollment roster;
 - (B) a course schedule with the designation of instructors and evaluators utilized in delivery;
 - (C) scores recorded for each trainee on the ~~80~~ 70 minute skill presentation; and
 - (D) designation of trainees who completed the course in its entirety and whom the School Director finds to be competent to instruct.
- (d) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified ~~radar, radar and time-distance, time-distance, or lidar~~ RADAR, RADAR and Time-Distance, Time-Distance, or LIDAR speed measurement operator training course or re-certification course, the School Director shall:
- (1) select and schedule speed measurement instrument instructors who are certified by the Commission as instructors for the specific speed measurement instruments in which the trainees are to receive instruction as follows:
 - (A) provide to the instructor the Commission form(s) for motor skill examination on each trainee;
 - (B) require the instructor to complete the motor skill examination form on each trainee indicating the level of proficiency obtained on each specific instrument; and
 - (C) require each instructor to sign each individual form and submit the original to the School Director;
 - (2) not fewer than 30 days before the scheduled starting date, submit to the Director of the Standards Division a Pre-Delivery Report of Speed Measuring Instrument Course Presentation [Form F-10A (SMI)] that shall contain a period of course delivery including the proposed starting date, course location, requested date and location for the administration of the state exam, and the number of trainees to be trained on each type of approved speed measurement instrument. The Director of the

- Standards Division shall review the request and notify the School Director within thirty business days if the request is approved or denied; and
- (3) upon completing delivery of the Commission-certified course, and not more than 10 days after the conclusion of a school's offering of a certified ~~radar, radar and time distance, time distance, or lidar~~ RADAR, RADAR and Time-Distance, Time-Distance, or LIDAR speed measurement operator training course or re-certification course, the School Director shall notify the Commission regarding the progress and achievements of each trainee by submitting a Post-Delivery Report of Training Course Presentation [Form F-10B (SMI)]. This report shall include the original motor-skill examination form(s) completed and signed by the certified instructor responsible for administering the motor-skill examination to the respective trainee.

History Note: Authority G.S. 17C-6;
Eff. January 1, 1981;
Amended Eff. November 1, 1981;
Readopted w/change Eff. July 1, 1982;
Amended Eff. January 1, 2015; June 1, 2013; April 1, 2009; November 1, 2007; January 1, 2006;
May 1, 2004; August 1, 2000; January 1, 1996; November 1, 1993; December 1, 1987; January 1,
1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
2019.
Amended Eff. July 1, 2020.

12 NCAC 09B .0203 is proposed for amendment as follows:

12 NCAC 09B .0203 ADMISSION OF TRAINEES

(a) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course who is not a citizen of the United States.

(b) The school shall not admit any individual younger than 20 years of age as a trainee in any non-academic basic criminal justice training course. Individuals under 20 years of age may be granted authorization for early enrollment as trainees in a presentation of the Basic Law Enforcement Training Course with prior written approval from the Director of the Standards Division. The Director shall approve early enrollment if the individual will be 20 years of age prior to the date of the State Comprehensive Examination for the course.

(c) The school shall give priority admission in certified criminal justice training courses to individuals holding full-time employment with criminal justice agencies.

(d) The school shall not admit any individual as a trainee in a presentation of the "Criminal Justice Instructor Training Course" who does not meet the education and experience requirements for instructor certification under Rule .0302 of this Subchapter within 60 days of successful completion of the Instructor Training State Comprehensive Examination.

(e) The school shall not admit an individual, including partial or limited enrollees, as a trainee in a presentation of the Basic Law Enforcement Training Course unless the individual, within one year prior to admission to the Basic Law Enforcement Training Course, scores at or above mastery level on the NROC Edready™ Skills Inventory for English or places into course DRE 098 or above at a North Carolina Community College as a result of taking the Reading and English component of the North Carolina Diagnostic Assessment and Placement test as approved by the State Board of Community Colleges on October 17, 2014, (<http://www.nccommunitycolleges.edu/state-board-community-colleges/meetings/october-17-2014>), or has taken the reading component of a nationally standardized test and has scored at or above the tenth grade level or the equivalent. For the purposes of this Rule:

(1) Partial or limited enrollee does not include enrollees who ~~held~~, hold or have held within 12 months prior to the date of enrollment, general certification pursuant to 12 NCAC 09C .0304.

(2) A "nationally standardized test" means a test that:

(A) reports scores as national percentiles, stanines, or grade equivalents; and

(B) compares student test results to a national norm.

(f) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course unless the individual has provided to the School Director a medical examination report, completed by a physician licensed to practice medicine in North Carolina, a physician's assistant, or a nurse practitioner, to determine the individual's fitness to perform the essential job functions of a criminal justice officer. The Director of the Standards Division shall grant an exception to this standard for a period of time not to exceed the commencement of the physical fitness topical area when failure to receive the medical examination report is not due to neglect on the part of the trainee.

(g) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course unless the individual is a high school, college, or university graduate or has received a high school equivalency credential recognized by the issuing state. High school diplomas earned through correspondence enrollment in an entity that charges a fee and requires the individual to complete little or no education or coursework to obtain a high diploma shall not be recognized toward the educational requirements.

(h) The school shall not admit any individual trainee in a presentation of the Basic Law Enforcement Training Course unless the individual has provided the School Director one of the following types of record checks in the manner set forth in Section (i) below: ~~a certified criminal record check for local and state records for the time period since the trainee has become an adult and from all locations where the trainee has resided since becoming an adult. An Administrative Office of the Courts criminal record check or a comparable out-of-state criminal record check shall satisfy this requirement.~~

(1) a written notification, known as a "Criminal Record Conviction History for B.L.E.T. Enrollment," Form F-25, located at <https://www.ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Forms-and-Publications.aspx>, from a department head stating that a criminal record check for local and state records has been conducted and no criminal convictions as listed in subsection (j) of this Rule were found that prohibit the individual trainee's enrollment in a presentation of the Basic Law Enforcement Training Course. The hiring agency or the individual trainee shall also provide certified court documentation for each criminal conviction; or

(2) a certified criminal record check for local and state records, and certified court documentation for each criminal conviction; or

(3) if the individual trainee has only resided in North Carolina since obtaining the age of majority, provide a fingerprint-based criminal history background check known as a "Right to Review" performed by the North Carolina State Bureau of Investigation. The individual shall also provide certified court documentation for each criminal conviction; or

(4) a fingerprint-based criminal history background check known as a "Right to Review" performed by a federal agency including all locations where the trainee has lived since obtaining the age of majority. The individual shall also provide certified court documentation for each criminal conviction; or

(5) trainees who have served in the United States Armed Forces, in addition to one of the types of criminal records checks listed in paragraphs one through four above, shall provide a copy of their Certificate of Discharge, DD Form 214, that shows their "Character of Service" and "Narrative Reason for Separation." Individuals showing a "Character of Service" as "Bad Conduct" or "Dishonorable" shall provide certified copies of their court-martial proceedings to include the final disposition. Trainees shall also provide documentation to show that they have requested their official military personnel file, which shall be provided upon receipt.

(6) a trainee who has been naturalized as a United States Citizen is exempt from providing the criminal record checks for locations where they resided outside of the United States prior to naturalization.

(7) a trainee who has resided outside the United States, other than those described in subsections five and six, who cannot obtain a criminal record check from any location outside the United States shall document the following, to be forwarded to the Standards Division for review on a case by case basis:

- (1) the name of the agencies contacted,
- (2) the date the agencies were contacted,
- (3) the contact information for the agencies contacted, and
- (4) the reason the information cannot be provided.

(i) Documents obtained in accordance with Section (h) above shall meet the following requirements:

- (1) Any records provided shall fall within the time period beginning when the trainee obtains the age of majority and continuing through the date of application.
- (2) Any records provided shall include all locations where the trainee has resided since obtaining the age of majority.
- (3) "Resided in" means any place the trainee has lived, worked, attended school, or participated in an internship.
- (4) "Certified court documentation" and "record check" mean a document with either a raised seal or other visible verification that the document is authentic as a copy of the court's official record as authorized by law.
- (5) Any records provided shall include all legal names utilized by the trainee since obtaining the age of majority.

(j)(i) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course who has been convicted of the following:

- (1) a felony;
- (2) a crime for which the punishment could have been imprisonment for more than two years;
- (3) a crime or unlawful act defined as a Class B Misdemeanor within the five year period prior to the date of application for employment, unless the individual intends to seek certification through the North Carolina Sheriffs' Education and Training Standards Commission;
- (4) four or more crimes or unlawful acts defined as Class B Misdemeanors, regardless of the date of conviction;
- (5) four or more crimes or unlawful acts defined as Class A Misdemeanors, except the trainee may be enrolled if the last conviction date occurred more than two years prior to the date of enrollment; or
- (6) a combination of four or more Class A Misdemeanors or Class B Misdemeanors regardless of the date of conviction, unless the individual intends to seek certification through the North Carolina Criminal Justice Education and Training Standards Commission.

(k)(i) Individuals charged with crimes specified in Paragraph (i) (j) of this Rule may be admitted into the Basic Law Enforcement Training Course if such offenses were dismissed or the person was found not guilty, but completion of the Basic Law Enforcement Training Course does not ensure that certification as a law enforcement officer or justice officer through the North Carolina Criminal Justice Education and Training Standards Commission will be issued.

Every individual who is admitted as a trainee in a presentation of the Basic Law Enforcement Training Course shall notify the School Director of all criminal offenses the trainee is arrested for or charged with, pleads no contest to, pleads guilty to, or is found guilty of, and of all Domestic Violence Protective Orders (G.S. 50B) that are issued by a judicial official after a hearing that provides an opportunity for both parties to be present. This includes all criminal offenses except minor traffic offenses and includes any offense of Driving Under the Influence (DUI) or Driving While Impaired (DWI). A "minor traffic offense" is defined, for the purposes of this Paragraph, as an offense where the maximum punishment allowable by law is 60 days or fewer. Other offenses under G.S. 20 (Motor Vehicles) or similar laws of other jurisdictions that shall be reported to the School Director are G.S. 20-138.1 (driving while under the influence), G.S. 20-28 (driving while license permanently revoked or permanently suspended), G.S. 20-30(5)(fictitious name or address in application for license or learner's permit), G.S. 20-37.8 (fraudulent use of a fictitious name for a special identification card), G.S. 20-102.1 (false report of theft or conversion of a motor vehicle), G.S. 20-111(5)(fictitious name or address in application for registration), G.S. 20-130.1 (unlawful use of red or blue lights), G.S. 20-137.2 (operation of vehicles resembling law enforcement vehicles), G.S. 20-141.3 (unlawful racing on streets and highways), G.S. 20-141.5 (speeding to elude arrest), and G.S. 20-166 (duty to stop in event of accident). The notifications required under this Paragraph shall be in writing and specify the nature of the offense, the court where the case was handled, the date of the arrest or criminal charge, the date of issuance of the Domestic Violence Protective Order (50B), and the final disposition and the date thereof. The notifications required under this Paragraph shall be received by the School Director within 30 days of the date the case was disposed of in court. The requirements of this Paragraph are applicable at all times during which the trainee is enrolled in a Basic Law Enforcement Training Course. The requirements of this Paragraph are in addition to the notifications required under 12 NCAC 10B .0301 and 12 NCAC 09B .0101(8).

(l) The school shall not admit any individual as a trainee in the presentation of the Basic Law Enforcement Training Course unless the individual has provided to the School Director copies of all active Domestic Violence Orders of Protection and Civil Non-Contact Orders issued to the individual.

(m) The school shall not admit any individual as a trainee in the presentation of the Basic Law Enforcement Training Course unless the individual has provided to the School Director a copy of their valid driver's license.

History Note: Authority G.S. 17C-6; 17C-10;

Eff. January 1, 1981;

Amended Eff. January 1, 2019; April 1, 2018; January 1, 2017; February 1, 2016; November 1, 2015; March 1, 2015; January 1, 2015; June 1, 2012; February 1, 2011; June 1, 2010; December 1, 2004; July 1, 2004; August 1, 2002; August 1, 2000; January 1, 1995; March 1, 1992; July 1, 1989; January 1, 1985;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019.

Amended Eff. July 1, 2020;

12 NCAC 09B .0303 is proposed for amendment as follows:

12 NCAC 09B .0303 TERMS AND CONDITIONS OF GENERAL INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for certification as a general instructor shall, ~~for~~ within the first 12 months of certification, be in a probationary status until satisfying the requirements of Paragraph (b) of this Rule. The General Instructor Certification, Probationary Status, shall automatically expire 12 months from the date of issuance.

(b) The probationary instructor shall be eligible for General Instructor ~~general instructor~~ status if the instructor, ~~through application at the end of the probationary period,~~ submits to the Commission a favorable recommendation from a certified School Director or In-Service Training Coordinator, located on the agency's website: <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/#102-wpfd-instructor>. Form-F-12A shall be accompanied by a certification on a Commission Instructor Evaluation Form F-16 that the instructor taught a minimum of eight hours of Commission-accredited basic training, ~~course,~~ Commission-recognized in-service training ~~course,~~ or training course pursuant to 12 NCAC 10B .0601, 10B .1302, or 10B .2005 during the probationary period. The instructor shall achieve a minimum of 64 points on all instruction evaluations submitted to the Commission. The Commission Instructor Evaluation Form F-16 is located on the agency's website: ~~<http://www.ncdoj.gov/getdoc/c2eba6aa-12bc-4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx>~~ <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/#102-wpfd-instructor>.

(c) Probationary Instructors for just cause, may be granted an extension of the one-year period to teach the eight hour minimum requirement. The Director may grant such extensions on a one-time basis only not to exceed 12 months. For purposes of this Rule, "just cause" includes an accident, illness, emergency, or course cancellation that precluded the instructor from fulfilling the teaching requirement.

(d) The term of certification as a general instructor is indefinite, provided the instructor completes during each calendar year a minimum of one hour of instructor refresher training provided by North Carolina Justice Academy. The Standards Division shall post on its website on January 1 of the current year the list of instructors who have met this requirement during the previous calendar year.

(e) If the instructor fails to meet the instructor refresher training specified in Paragraph (c) of this Rule, he or she shall deliver eight hours of evaluated instruction in a Commission-accredited basic training, Commission-recognized in-service training course, or training course pursuant to 12 NCAC 10B .0601, .1302, or .2005, and complete the instructor refresher training specified in Paragraph (d) of this Rule within 60 days from the last day of the previous calendar year.

(f) If an instructor fails to meet the requirements of Paragraph (d) or (e) of this Rule, the certification period for the instructor shall cease, and the instructor shall be required to complete the requirements of Rule 09B .0302 of this Section in order to obtain probationary instructor status.

(g) The use of guest participants in a delivery of the Basic Law Enforcement Training Course is permissible. However, such guest participants shall be supervised on-site by a Commission-certified instructor and must be authorized by the School Director. A guest participant shall only be used to complement the primary certified instructor of the block of instruction and shall not replace the primary instructor.

1 (h) "Commission-recognized in-service training" shall mean training meeting the following requirements:

- 2 (1) training is taught by an instructor certified by the Commission;
- 3 (2) training utilizes a lesson plan in the Instructional Systems Design format; and
- 4 (3) completion of training shall be demonstrated by a passing score on a written test as follows:
- 5 (A) a written test comprised of at least five questions per credit shall be developed by the
- 6 agency or the North Carolina Justice Academy for each in-service training topic requiring
- 7 testing. Written courses that are more than four credits in length are required to have a
- 8 written test comprising of a minimum of 20 questions. The Firearms Training and
- 9 Qualifications in-service course is exempt from this written test requirement;
- 10 (B) a student shall pass each test by achieving at least 70 percent correct answers; and
- 11 (C) a student who completes a topic of in-service training in a traditional classroom setting or
- 12 online and fails the end of topic exam shall be given one attempt to re-test. If the student
- 13 fails the exam a second time, the student shall complete the in-service training topic in a
- 14 traditional classroom setting before taking the exam a third time.
- 15 (D) Topics delivered pursuant to 12 NCAC 09E .0104(1) and 12 NCAC 09E .0105(a)(1) shall
- 16 not require written testing.

17

18 *History Note: Authority G.S. 17C-6;*

19 *Eff. January 1, 1981;*

20 *Amended Eff. January 1, 2017; December 1, 2007; November 1, 2007; August 1, 2006; January 1,*

21 *2006; August 1, 2000; July 1, 1991; October 1, 1985; January 1, 1985; January 1, 1983;*

22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*

23 *2019;*

24 *Amended Eff. July 1, 2020; August 1, 2019.*

25

26